

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 020431.0742

In re Application of:

JAMES M. CRAWFORD, ET AL.

Serial No. **09/675,415**

Filed: **29 SEPTEMBER 2000**

For: **SYSTEM AND METHOD FOR
RENDERING CONTENT ACCORDING
TO AVAILABILITY DATA FOR
ONE OR MORE ITEMS**

[illegible]

Examiner:

RAQUEL ALVAREZ

Art Unit: **3688**

Confirmation No. 9669

REQUEST FOR REINSTATEMENT OF THE APPEAL

MAIL STOP: APPEAL BRIEF - PATENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir/Madam:

Appellants hereby request for a reinstatement of an Appeal. Appellants filed a Notice of Appeal on 4 October 2004, with the Board of Patent Appeals and Interferences from the decision of the Examiner mailed 12 February 2004, twice rejecting pending Claims 1-43, in the subject Application. Appellants further filed an Appeal Brief on 21 February 2005. Please reinstate the Appeal and consider the following remarks and arguments.

REMARKS:

Appellants filed a Notice of Appeal on 4 October 2004, with the Board of Patent Appeals and Interferences from the decision of the Examiner mailed 12 February 2004, twice rejecting pending Claims 1-43, in the subject Application. Appellants further filed an Appeal Brief on 21 February 2005.

An Examiner's Answer in the subject Application was mailed on 5 December 2008. Appellants filed a response under 37 C.F.R. § 1.111 on 3 February 2009 requesting that prosecution be reopened to address new grounds of rejections raised by the Examiner in the Examiner's Answer dated 5 December 2008. An Order Returning Undocketed Appeal to Examiner was mailed on 6 February 2009 and a second Examiner's Answer was mailed on 24 August 2009, thereafter withdrawn due to the request that prosecution be reopened to address the new grounds of rejections and respond to the response under 37 C.F.R. § 1.111 filed on 3 February 2009.

A Final Office Action in the subject Application was mailed on 31 August 2009. However, the Final Office Action did not support a new ground of rejection, but instead merely maintained the same rejection (claims now three times rejected) as the Final Office Action mailed 12 February 2004. In fact, the Final Office Action mailed on 31 August 2009 is substantially identical to the Final Office action mailed on 12 February 2004. For example, the rejection of Claims 1, 4-5, 8-13, 15, 18-19, 22-27, 29-30, 33-34, and 37-42 based on *Cragun* under 35 U.S.C. § 102(b) in the Final Office Action of 31 August 2009 consists entirely of material repeated substantially verbatim from the Final Office Action of February 12, 2004. In addition, the rejection of Claims 6-7, 14, 20-21, 28, 35-36, and 43 based on *Cragun* under 35 U.S.C. § 103(a) in the Final Office Action of 31 August 2009 consists entirely of material repeated verbatim from the Final Office Action of February 12, 2004. Furthermore, the rejection of Claims 2-3, 16-17, and 31-32 based on *Cragun* in view of *Linden* under 35 U.S.C. § 103(a) in the Final Office Action of 31 August 2009 consists entirely of material repeated verbatim from the Final Office Action of February 12, 2004. Still furthermore, the Response to Arguments section in the Final Office Action of 31 August 2009 consists entirely of material repeated substantially verbatim from the Response to Arguments section in the Final Office Action of February 12, 2004.

Appellants respectfully submit that pending Claims 1-43, in the subject Application, has been, at least, twice rejected as of the Final Office action mailed on 31 August 2009. Appellants respectfully request the reinstatement of the Appeal. Furthermore, this Request for Reinstatement of the Appeal is being filed prior to the ending of the response period 30 November 2009 of the Final Office Action mailed on 31 August 2009. Thus, no additional fees are deemed necessary.

CONCLUSION:

The Commissioner is hereby authorized to charge the Notice of Appeal Fee and the Appeal Brief Fee of \$410.00 to Deposit Account No. 500777. Because Appellants paid \$330.00 with the Notice of Appeal mailed on 4 August 2004 (the now Notice of Appeal fee is \$540.00) and Appellants paid \$340.00 with the Appeal Brief mailed on 4 October 2004 (the now Appeal Brief fee is \$540.00), the Appellant is submitting herewith the authorization to charge the additional \$410.00 to **Deposit Account No. 500777**. Although Appellants believe no additional fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing the Notice of Appeal or Request for Reinstatement of the Appeal to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

30 November 2009
Date

/Steven J. Laureanti/signed
Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe AZ, 85281
214.636.0799 (mobile)
480.830.2700 (office)
480.830.2717 (fax)
steven@boothudall.com

CUSTOMER NO. 53184